

Message

From: Chemerys, Ruth [Chemerys.Ruth@epa.gov]
Sent: 6/3/2019 7:17:09 PM
To: Maher, Lauren [Maher.Lauren@epa.gov]
CC: Siegal, Tod [Siegal.Tod@epa.gov]; Hurlid, Kathy [Hurlid.Kathy@epa.gov]; Kasperek, Lauren [kasperek.lauren@epa.gov]
Subject: 404(g) Rulemaking - Tribal treaty rights & other tribal issues
Attachments: 404g1BluePrintFinal8-9-18.docx; Tribal assumption revised 6-3.docx

Hi Lauren-

As you may know from Tod and others, we are currently working on an update of the Clean Water Act section 404(g) rule. The rule provides for states and tribes to assume administration of the CWA section dredged and fill permit program for certain waters within their jurisdiction, provided the state or tribe develop a permit program consistent with applicable statutory and regulatory requirements. It is a priority of our Office of Water AA to encourage state and tribal assumption, as only 2 states have assumed the program. In response to requests from states and tribes, the rulemaking is intended to provide greater clarity on the requirements for state and tribal 404 assumption. Attached is the analytic blueprint outlining the key issues being addressed in the rulemaking. There will also be updates of various other administrative aspects of the regulation.

The rule currently identifies the requirements that a tribe must meet to be eligible to assume the program. However, we've identified a number of issues and questions to consider in this rulemaking. These include **Ex. 5 Deliberative Process (DP)**

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Ex. 5 Deliberative Process (DP) Attached is an outline of some of the tribal consideration we've identified thus far, and some initial thoughts based on discussions with Tod and others last week. We'd like to get your input as well, particularly regarding tribal treaty rights.

So, please stay tuned for a meeting invitation. Please also feel free to contact Kathy Hurlid, Lauren Kasperek, or me if you would like to discuss further.

Thanks!
Ruth

Ruth Chemerys

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